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FISCAL IMPACT STATEMENT

LS 7169

BILL NUMBER: SB 576

NOTE PREPARED: Apr 1, 2011

BILL AMENDED: Mar 31, 2011

SUBJECT: Worker's Compensation.

FIRST AUTHOR: Sen. Boots

FIRST SPONSOR: Rep. Lehman

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill does the following.

(1) This bill requires that all members of the Worker's Compensation Board be attorneys in good standing admitted to the practice of law in Indiana.

(2) The bill renames the position of Executive Secretary Executive Administrator.

(3) The bill requires a health care provider to file a claim for payment with the Board not later than two years after the provider receives an initial written communication from an employer, the employer's insurance carrier, or an agent acting on behalf of the employer in response to the provider's submission of a bill for services. It requires a hospital or facility that is a medical service provider to pay a \$60 filing fee for each application filed in a balance billing case. The bill also provides that a filing fee is not required for an application filed for a denied or unpaid claim. It allows a provider to combine up to 10 individual claims into one application whenever all of the individual claims involve the same employer, insurance carrier, or billing review service, and the amount of each individual claim does not exceed \$200.

(4) The bill allows the Second Injury Fund to be used to pay certain fund liabilities.

(5) The bill authorizes the Board to resolve claims using mediation.

((6) The bill requires an employer to provide a copy of an injury or disablement report to the Board upon request. It requires an injury or disablement report within seven days after the first day of a disability arising from a work place injury or disablement by occupational disease (rather than the occurrence of the injury

or disablement).

(7) The bill increases civil penalties for failure to: (1) post certain notices; (2) file certain records; and (3) determine liability for claims in a timely manner.

(8) The bill permits the Board to request evidence of worker's compensation and occupational diseases compensation coverage from an employer. It establishes a civil penalty of \$50 per employee per day for an employer's failure to provide proof of coverage. The bill also requires the Board to waive a civil penalty assessed whenever an employer provides proof of coverage by the twentieth day after the Board provides written notice of the employer's failure to provide evidence of the coverage. The bill allows the Board, after notice and a hearing, to post on the Board's web site the name of an employer who fails or refuses to provide proof of coverage or pay a civil penalty assessed for the failure or refusal to provide coverage. It provides that an employer's name may not be removed from the Board's web site until the employer provides proof of coverage and pays the civil penalties assessed.

(9) The bill requires that civil penalties be deposited in the Worker's Compensation Supplemental Administrative Fund, instead of the state General Fund.

(10) The bill increases criminal penalties for an employer's failure to insure or otherwise provide adequate security for the employer's worker's compensation and occupational disease liabilities and for violating any other worker's compensation or occupational disease laws. It provides that a court may temporarily order an employer that fails or refuses to pay worker's compensation or occupational disease benefits when due to cease doing business until the employer furnishes to the Board proof of insurance or other assurances to establish that the employer has the ability to meet all worker's compensation and occupational disease liabilities.

(11) The bill allows the owner of a sole proprietorship who is an independent contractor and does not elect worker's compensation and occupational disease coverage to obtain a certification of exemption.

(12) The bill urges the Legislative Council to assign to the Pension Management Oversight Commission the task of studying whether to: (1) increase the benefit schedules for worker's compensation and occupational disease compensation; (2) amend the definition of "pecuniary liability" to establish the charge for services or products provided by a medical services facility as equal to a percentage determined using the Medicare program reimbursement methodologies, models, and values or weights, including the coding, billing, and reporting payment policies in effect on the date a service or product is provided; and (3) change the statute of limitations for making a claim for occupational disease compensation. It also requires, if the Commission is assigned the topics, that the Commission issue a final report containing the Commission's findings and recommendations, including any recommended legislation, not later than November 1, 2011.

The bill makes conforming and technical corrections.

Effective Date: Upon passage; July 1, 2011.

Explanation of State Expenditures: The bill would impact the state as an employer and also the Worker's Compensation Board as an administrator of the program.

State as an Employer: The impact on the state as an employer would probably be minor.

Worker's Compensation Board: (1) Currently only the chairman of the Board is required to be an attorney of recognized qualifications. The provision should not have a fiscal impact on the Board.

(2) Renaming the Executive Secretary of the Board to Executive Administrator of the Board should have no fiscal impact.

(3) The two-year limit for a health care provider to file a claim for payment with the Board could reduce the number of claims and administrative costs.

(4) The Second Injury Fund has borrowed money in prior years to pay claims until the assessments could be increased. The bill would allow the fund to repay the loans. Currently, the fund can only be used to pay claims. The loans in the past years have totaled about \$962,000.

(5) The authorization of the Board to resolve claims using mediation could reduce administrative costs and possibly reduce the time to settle claims.

(6) The requirement that an employer provide a copy of an injury report to the Board upon request could reduce administrative costs. The requirement that an injury report be provided within seven days after the first day of a disability arising from a work place injury should have no impact on the Board.

(11) (Revised) Allowing the owner of a sole proprietorship who is an independent contractor and does not elect worker's compensation and occupational disease coverage to obtain a certification of exemption should not have any significant state impact.

(12) The provision urging the Legislative Council to assign additional study topics to the Pension Management Oversight Commission should have no fiscal impact if no additional meetings of the commission are required.

Explanation of State Revenues: (3) The filing fees for the resolution of health care provider claims could increase revenue.

(7) The bill creates civil penalties for failure to: (1) post certain notices; (2) file certain records; and (3) determine liability for claims in a timely manner from \$50 per violation to \$50 for the first violation, \$150 for the second violation, and \$300 for the third or subsequent violations.

(8) The bill would establish a civil penalty if an employer does not provide the Board with current proof of coverage. The penalty is \$50 per employee per day if the proof is not provided by 10 days after the Board has requested proof of coverage. The bill could increase revenue by an unknown amount.

(9) Requiring that civil penalties be deposited in the Worker's Compensation Supplemental Administrative Fund instead of the state General Fund could reduce revenue into the General Fund and increase revenue into the Worker's Compensation Supplemental Administrative Fund. With the new civil penalties, it is unknown what the transfer might be.

(10) The increase in criminal penalties for an employer's failure to insure or otherwise provide adequate security for the employer's worker's compensation and occupational disease liabilities and for violating any other worker's compensation or occupational disease laws would increase revenue to the Common School Fund and decrease revenue to the state General Fund by an unknown amount.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Worker's Compensation Board.

Local Agencies Affected:

Information Sources:

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